

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

1

**The Minutes**

**July 21, 2003**

At 9:35 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Nicholson, Associate Justice; Hull, Associate Justice and Facey, bailiff.

**C043185 THE PEOPLE v. BYNUM**

Cause called. Court Reporter Karol Moncrief appeared on an Order to Show Cause. Cause submitted.

At 9:55 a.m., the court recessed. At 10:00 a.m., the court reconvened with Scotland, Presiding Justice; Nicholson, Associate Justice; and Hull, Associate Justice.

**C043396 THE PEOPLE v. WOODFIN, JR.**

Cause called. Court Reporter Karol Moncrief appeared on an Order to Show Cause. Cause submitted.

At 10:02 a.m., the court recessed. At 10:10 a.m., the court reconvened with Nicholson, Associate Justice; Morrison, Associate Justice; and Robie, Associate Justice.

**C042848 HARDEN v. ZINNEMANN, as Commissioner, etc., et al.**

Cause called. Amy J. Winn, Deputy Attorney General, argued for appellants. Bruce William Nickerson argued for respondent. Cause submitted.

At 10:15 a.m., the court recessed. At 10:20 a.m., the court reconvened with Nicholson, Associate Justice; Morrison, Associate Justice; and Hull, Associate Justice.

**C041189 CALIFORNIA TEACHERS ASSOC. et al. v. CALIF. COMMISSION ON TEACHER CREDENTIALING et al.**

Cause called. Michael Rothschild argued for appellants. Janie Daigle, Deputy Attorney General, argued for respondents. Cause submitted.

At 11:00 a.m., the court recessed. At 11:01 a.m., the court reconvened.

**C041893 CARBONEAU et al. v. STATE OF CALIFORNIA et al.**

Cause called. Richard D. Ackerman argued for appellants. Dan Siegel, Deputy Attorney General, argued for and Nancy Saracino appeared only for respondent. Cause submitted.

At 11:30 a.m., the court recessed until 9:30 a.m., Tuesday, July 22, 2003.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

2

**The Minutes**

**July 21, 2003, continued**

**C039168      THE PEOPLE v. RUSSELL      (Not for Publication)**

The judgment is reversed and the matter is remanded to the trial court with directions to set aside its order denying defendant's motion to suppress evidence (Pen. Code § 1538.5) and to conduct an in camera hearing consistent with this opinion and the requirements set forth in *People v. Hobbs, supra*, 7 Cal. 4th 948. If, after the hearing, the court denies defendant's motion to traverse the warrant, the court is directed to reinstate the judgment and permit defense counsel to file a new notice of appeal. If the court grants defendant's motion, that court is directed to vacate defendant's plea of no contest if she makes a timely motion to withdraw her plea. In that event, on motion of the People the original charges shall be reinstated and trial shall proceed or other appropriate disposition shall be made. If defendant does not elect to withdraw her plea of no contest, the court shall reinstate the judgment.

BLEASE, J.

We concur:    Scotland, P.J.  
                 Morrison, J.

**C042410      THE PEOPLE v. AZEVEDO      (Not for Publication)**

The judgment is modified... Except as modified, the judgment is affirmed. The trial court is directed to correct the abstract of judgment to reflect that defendant was ordered to register as a narcotics offender pursuant to Health and Safety Code section 11590 and to remove the reference to registration as a sexual offender. The clerk of the superior court is directed to prepare an amended abstract of judgment and to forward a certified copy to the Department of Corrections.

KOLKEY, J.

We concur:    Nicholson, Acting P.J.  
                 Raye, J.

**C042931      THE PEOPLE v. WHITE      (Not for Publication)**

The judgment is modified as follows:...

As modified, the judgment is affirmed.

The trial court shall issue an amended abstract of judgment, which designates section 4019 as the basis for the conduct credits (in the box specified therefor), and shall submit a certified copy thereof to the Department of Corrections.

KOLKEY, J.

We concur:    Nicholson, Acting P.J.  
                 Raye, J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

3

**The Minutes**

**July 22, 2003**

At 9:29 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Blease, Associate Justice; Raye, Associate Justice; Hull, Associate Justice and Guzman, bailiff.

**C039922      MAZDA MOTOR OF AMERICA, INC. v. NEW MOTOR VEHICLE BOARD and DAVID J. PHILLIPS BUICK-PONTIAC, INC.**

Cause called. Marybelle D. Archibald, Deputy Attorney General, argued for defendant/appellant. Christian J. Scali, argued for Real Party in Interest/appellant. Maurice Sanchez argued for respondent. Cause submitted.

At 9:56 a.m., the court recessed. At 10:01 a.m., the court reconvened with Blease, Associate Justice; Hull, Associate Justice; and Robie, Associate Justice.

**C039827      M. PEREZ COMPANY, INC. v. BASE CAMP CONDOMINIUM ASSOCIATION NO. ONE and MEEKER**

Cause called. Robert Scharf argued for defendant-appellant-cross respondent. Timothy W. Pemberton argued for and David J. Bader appeared only for defendant-respondent. Gene Vorobyov argued and Eugene P. La More appeared only for plaintiff-respondent-cross appellant. Cause submitted.

At 10:20 a.m., the court recessed. At 10:24 a.m., the court reconvened with Blease, Associate Justice; Hull, Associate Justice; and Kolkey, Associate Justice.

**C041469      COLE et al. v. DEAVERS et al.**

Cause called. William E. Barnes argued for appellants. Timothy W. Pemberton argued for respondents. Cause submitted.

At 10:46 a.m., the court recessed. At 10:52 a.m., the court reconvened with Blease, Associate Justice; Morrison, Associate Justice; and Robie, Associate Justice.

**C041672      THE PEOPLE v. RUELAS**

Cause called. Sung Lee argued for appellant. John A. Thawley, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:16 a.m., the court recessed. At 11:22 a.m., the court reconvened with Nicholson, Associate Justice; Morrison, Associate Justice; and Robie, Associate Justice.

**C041176      GOOD v. BROYHILL FURNITURE, INC.**

Cause called. Robert K. Spotswood argued for defendant-appellant-cross respondent. Bert J. Miano argued for plaintiff-respondent-cross appellant. Cause submitted.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

4

**The Minutes**

**July 22, 2003, continued**

At 11:54 a.m., the court recessed. At 1:59 p.m., the court reconvened with Blease, Associate Justice; Morrison, Associate Justice; and Robie, Associate Justice.

**C042092      THE PEOPLE v. COOKE**

Cause called. Bradley A. Bristow, CCAP, argued for appellant. Brook A. Bennigson, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:13 p.m., the court recessed until 9:30 a.m., Wednesday, July 23, 2003.

**C039996      THE PEOPLE v. GULBRONSON      (Not for Publication)**

The judgment is affirmed.

KOLKEY, J.

We concur:    Sims, Acting P.J.  
                  Nicholson, J.

**C040477      THE PEOPLE v. HUDSON      (Not for Publication)**

The judgment is affirmed.

SCOTLAND, P.J.

We concur:    Davis, J.  
                  Nicholson, J.

**C040877      THE PEOPLE v. STEVENS      (Not for Publication)**

The judgment (order of probation) is modified... As modified, the judgment is affirmed. The trial court is directed to modify the minute order and order of probation.

ROBIE, J.

We concur:    Davis, Acting P.J.  
                  Hull, J.

**C041814      THE PEOPLE v. GATHINGS      (Not for Publication)**

The judgment is affirmed.

RAYE, J.

We concur:    Nicholson, Acting P.J.  
                  Kolkey, J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

5

**The Minutes**

**July 22, 2003, continued**

- C041843      THE PEOPLE v. CRAMER      (Not for Publication)**  
The judgment is affirmed. The trial court is directed to amend the abstract of judgment to reflect that defendant's birth date is January 31, 1955, and to forward a certified copy of the amended abstract to the Department of Corrections.  
SCOTLAND, P.J.  
We concur: Davis, J.  
Hull, J.
- C042478      THE PEOPLE v. HOLFORD      (Not for Publication)**  
The judgment is affirmed.  
ROBIE, J.  
We concur: Davis, Acting P.J.  
Hull, J.
- C042713      THE PEOPLE v. SINGH      (Not for Publication)**  
The judgment is affirmed.  
ROBIE, J.  
We concur: Davis, Acting P.J.  
Hull, J.
- C033175      WHORTON et al. v. COUNTY OF CALAVERAS      (Not for Publication)**  
The judgment is affirmed.  
DAVIS, J.  
We concur: Scotland, P.J.  
Blease, J.
- C038907      MARIE Y. et al. v. GENERAL STAR INDEMNITY COMPANY      (Certified for Publication)**  
The judgment in the present action is reversed and the matter is remanded for a redetermination of Marie Y.'s damages and costs in accordance with this opinion. The parties shall bear their own costs on appeal. (Cal. Rules of Court, rule 27(a)(3).)  
SIMS, Acting P.J.  
We concur: Raye, J.  
Morrison, J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

6

**The Minutes**

**July 22, 2003, continued**

- C041708      HASTINGS v. DEPARTMENT OF CORRECTIONS**  
**(Certified for Publication)**  
The judgment is affirmed. Respondent is awarded its costs. (Cal. Rules of Court, rule 27(a).) (*CERTIFIED FOR PUBLICATION*)  
BLEASE, Acting P.J.  
We concur:    Nicholson, J.  
                 Kolkey, J.
- C042293      EAST SACRAMENTO ALHAMBRA CORRIDOR NEIGHBORHOOD  
ASSOCIATION et al. v. CITY OF SACRAMENTO and INVESTMENT  
DEVELOPMENT SERVICES, LLC et al.      (Not for Publication)**  
The judgment is affirmed.  
DAVIS, Acting P.J.  
We concur:    Nicholson, J.  
                 Raye, J.
- C042350      BUTLER-JOHNSON CORPORATION v. FLOORS FACTORY OUTLET, INC.**  
**(Not for Publication)**  
The amended judgment is affirmed.  
DAVIS, Acting P.J.  
We concur:    Nicholson, J.  
                 Morrison, J.
- C042388      HOWARD JARVIS TAXPAYERS ASSOCIATION et al. v. CITY OF ROSEVILLE**  
**(Not for Publication)**  
The order denying attorney fees is reversed. The matter is remanded to the trial court to determine the appropriate amount of such fees. Plaintiffs shall recover their costs on appeal.  
DAVIS, Acting P.J.  
We concur:    Nicholson, J.  
                 Raye, J.
- C041521      In re C.A.; EL DORADO COUNTY DEPARTMENT OF SOCIAL SERVICES v.  
W.A. et al.      (Not for Publication)**  
The appeal is dismissed.  
RAYE, J.  
We concur:    Nicholson, Acting P.J.  
                 Kolkey, J.



**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

8

**The Minutes**

**July 23, 2003, continued**

**C037893 CASSIDY, et al. v. CASSIDY**

Cause called. Patrick Cassidy, appellant, argued for himself In Pro Per. Bonita Cassidy, appellant, argued for herself In Pro Per. James D. Cassidy, respondent, In Pro Per, did not appear. Cause submitted.

At 10:27 a.m., the court recessed. At 10:32 a.m., the court reconvened with Scotland, Presiding Justice; Blease, Associate Justice; and Raye, Associate Justice.

**C039995 ZARAGOZA v. ZEFF et al.**

Cause called. Jesse Jesus Zaragoza, appellant, argued for himself In Pro Per. William G. Johnson argued for respondents, Zeff et al.; Betsy S. Kimball argued for respondent Heise; Richard P. Hoppin for respondents Hoppin & Hoppin; D. Jack Haycock for respondent Henderson III; and R. Parker White, argued for respondent Poswall, White, Kouyoumdjian & Cutler. Cause submitted.

At 11:05 a.m., the court recessed. At 2:02 p.m., the court reconvened with Scotland, Presiding Justice; Raye, Associate Justice; and Kolkey, Associate Justice.

**C041514 JILL N. v. PLACER COUNTY et al.**

Cause called. Richard A. Frishman argued for appellant. Valerie E. Flood, County Counsel, argued for respondent, Placer County et al. Richard L. Crabtree argued for respondent, Randy Hall. Cause submitted.

At 2:30 p.m., the court recessed until 9:30 a.m., Friday, July 25, 2003.

**C040342 THE PEOPLE v. LUNA, JR.**

**(Not for Publication)**

The judgment is affirmed.

KOLKEY, J.

We concur: Sims, Acting P.J.  
Raye, J.

**C041785 In re PAUL A. REDD, JR., on Habeas Corpus**

**(Not for Publication)**

... Except to the extent the relief prayed for has been provided here, the order to show cause is discharged and the petition for writ of habeas corpus is denied. (*In re Harrell* (1970) 2 Cal. 3d 675, 706.)

SIMS, Acting P.J.

We concur: Nicholson, J.  
Morrison, J.



**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

9

**The Minutes**

**July 24, 2003**

- C038025      THE PEOPLE v. TURNER      (Not for Publication)**  
The strike finding is reversed and the sentence is vacated. In all other respects, the judgment is affirmed. The case is remanded with directions: ...  
NICHOLSON, J.  
We concur: Scotland, P.J.  
Morrison, J.
- C038323      THE PEOPLE v. DIESSLIN      (Not for Publication)**  
As modified, the judgment is affirmed. The trial court is ordered to issue a minute order dismissing the assault charge in count 2, and to forward a copy of that order to the Department of Corrections.  
MORRISON, J.  
We concur: Blease, Acting P.J.  
Hull, J.
- C040462      THE PEOPLE v. LINDSEY      (Not for Publication)**  
The judgment is affirmed.  
NICHOLSON, Acting P.J.  
We concur: Raye, J.  
Robie, J.
- C043062      THE PEOPLE v. SHARRAH      (Not for Publication)**  
The judgment is modified...  
As modified, the judgment is affirmed.  
NICHOLSON, Acting P.J.  
We concur: Raye, J.  
Kolkey, J.
- C039727      WILMSHURST v. CENTRAL VALLEY REGIONAL WATER QUALITY  
CONTROL BOARD et al.      (Not for Publication)**  
The judgment is reversed. The trial court is directed to set aside its order denying plaintiff's motion for reconsideration and its dismissal of plaintiff's petition and to enter a new order granting reconsideration and reinstating the petition. Appellant shall recover his costs on appeal.  
BLEASE, Acting P.J.  
We concur: Hull, J.  
Robie, J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

10

**The Minutes**

**July 24, 2003, continued**

**C041926      HILL et al. v. ROESSLER et al.      (Not for Publication)**

The judgment is reversed and the cause is remanded to the trial court for further proceedings on the issue of damages consistent with the views expressed in this opinion. Defendants are awarded their costs on appeal. (Cal. Rules of Court, rule 27(a).)

KOLKEY, J.

We concur:      Blease, Acting P.J.

Hull, J.

**July 25, 2003**

At 9:27 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Sims, Associate Justice; Kolkey, Associate Justice; Robie, Associate Justice; and Guzman, bailiff.

**C034960      THE PEOPLE v. VO et al.**

Cause called. Janice M. Lagerlof, court appointed counsel, argued for appellant Vo. Lauretta Marie Oravitz, argued for appellant Tran and submitted additional citations. Janet E. Neeley, Deputy Attorney General, argued for respondent. Cause submitted.

At 10: 04 a.m., the court recessed. At 10:09 a.m., the court reconvened with Sims, Associate Justice; Raye, Associate Justice; and Robie, Associate Justice.

**C039279      HAYES v. HAYES and COUNTY OF EL DORADO**

Cause called. Samuel O'Neal Hayes, appellant, argued for himself, In Pro Per. Mary Dahlberg, Deputy Attorney General, argued for respondent, County of El Dorado. Respondent did not appear. Cause submitted.

At 10:32 a.m., the court recessed. At 10:34 a.m., the court reconvened with Raye, Associate Justice; Hull, Associate Justice; Robie, Associate Justice.

**C039211      SISKIYOU COUNTY EMPLOYEES' ASSOCIATION et al. v. SISKIYOU  
COUNTY BOARD OF SUPERVISORS**

Cause called. Carolyn A. Anderson argued for appellants. Jeffrey C. Freedman argued for respondent. Cause submitted.

At 11:09 a.m., the court recessed until 9:30 a.m., Monday, July 28, 2003.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

11

**The Minutes**

**July 25, 2003, continued**

- C039742      THE PEOPLE v. ROBINSON      (Not for Publication)**  
The sentence for the count 2 conviction is vacated and the matter is remanded for resentencing on count 2 only. The \$20 administrative surcharge and the \$200 parole revocation fine pursuant to section 1202.45 are stricken. The judgment is otherwise affirmed. Following resentencing, the trial court shall amend the abstract of judgment to reflect the new sentence for count 2 and omit the above-referenced fines, and shall forward a certified copy of the amended abstract to the Department of Corrections.  
KOLKEY, J.  
I concur: Morrison, Acting P.J.  
I concur in the majority opinion including its rejection of defendant's *Marsden* claim in part I of the Discussion. I write separately because I believe the argument defendant's appellate counsel makes under that heading misses the point defendant was trying to make in his note to the probation department...  
Robie, J.
- C035434      FIRST INTERSTATE BANK OF CALIFORNIA, as Cotrustee, etc., et al. v. WINCREST HOMES, INC., et al. and McMORGAN & COMPANY      (Not for Publication)**
- C036722      FIRST INTERSTATE BANK OF CALIFORNIA, as Cotrustee, etc., et al. v. WINNCREST HOMES, INC.      (Not for Publication)**  
The judgment is affirmed. The matter is remanded to the trial court for further proceedings to determine an appropriate sanction in connection with Sweeney's violation of the trial court's discovery order. Cross-defendants First Interstate, PFT, and McMorgan are entitled to costs on appeal.  
HULL, J.  
We concur: Scotland, P.J.  
Nicholson, J.
- C041087      WEINBERG v. FEISEL      (Certified for Partial Publication)**  
The order denying defendant's special motion to strike is affirmed.  
SCOTLAND, P.J.  
We concur: Morrison, J.  
Hull, J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

12

**The Minutes**

**July 25, 2003, continued**

**C041625      HENKENS et al. v. TORRES      (Not for Publication)**

The matter is remanded to the trial court to perform an equitable accounting of the incidental damages to which the Henkens are entitled in conjunction with the specific performance of the contract. In all other respects, the judgment is affirmed. Torres shall reimburse the Henkens for their costs on appeal. (Cal. Rules of Court, rule 27(a).)

SCOTLAND, P.J.

We concur:     Raye, J.  
                     Kolkey, J.

**C042431      In re CHINE B.; DEPARTMENT OF HEALTH & HUMAN SERVICES v.  
FREDDIE B.      (Not for Publication)**

The appeal is dismissed.

NICHOLSON, Acting P.J.

We concur:     Raye, J.  
                     Kolkey, J.

**C044267      In re BAY-DELTA PROGRAMMATIC ENVIRONMENTAL IMPACT REPORT  
COORDINATED PROCEEDINGS; LAUB et al. v. DAVIS et al.**

**C044577      In re BAY-DELTA PROGRAMMATIC ENVIRONMENTAL IMPACT REPORT  
COORDINATED PROCEEDINGS; REGIONAL COUNCIL OF RURAL  
COUNTIES et al. v. STATE OF CALIFORNIA et al. and DEPARTMENT OF  
WATER RESOURCES et al. and SAN JOAQUIN RIVER GROUP AUTHORITY  
et al.**

BY THE COURT:

On the court's own motion, the above cases are consolidated. The cases are ordered consolidated for all further appellate procedures except that they will retain their respective case numbers. Whenever documents are submitted for filing by the parties, an original must be presented for each case number; however, if copies of documents are required pursuant to the California Rules of Court, the parties need only submit a maximum of four. The cases will be considered for decision together.

The court directs the parties to file proposed briefing schedules that include all parties to the consolidated appeals. The proposed briefing schedules are due August 11, 2003.

SCOTLAND, P.J.